



This document is scheduled to be published in the Federal Register on 04/02/2012 and available online at <http://federalregister.gov/a/2012-07754>, and on [FDsys.gov](http://FDsys.gov)

## DEPARTMENT OF THE TREASURY

### Privacy Act of 1974, as Amended

**AGENCY:** Departmental Offices, Treasury.

**ACTION:** Notice of Alteration of Privacy Act System of Records for the Home Affordable Modification Program, hereinafter known as the Making Home Affordable Program.

**SUMMARY:** The U.S. Department of the Treasury (Department) gives notice of four proposed alterations to the system of records currently entitled as “Treasury/DO .218 – Home Affordable Modification Program”: (1) the system of records shall be entitled, “Treasury/DO.218 – Making Home Affordable Program”; (2) the system of records may include a borrower’s criminal history, or lack thereof, as a category of record relating to borrower eligibility; (3) the system of records may include property sale information as a category of record; and (4) the system of records shall reference the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub L 111-203, Section 1481 (2010) (Dodd-Frank statute) as legal authority for the collection of a borrower’s criminal history or lack thereof. In light of the proposed name change from Home Affordable Modification Program to Making Home Affordable Program, the entire system of records notice, as amended on August 3, 2011, is set forth below.

**DATES:** Comments must be received no later than [Insert Date 30 Days After Publication In The Federal Register]. This altered system of records will be effective [Insert Date 35 Days After Publication In The Federal Register] unless the Department receives comments which would result in a contrary determination.

**ADDRESSES:** Comments should be sent to the Office of Financial Stability, Office of Financial Agents, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, or may be emailed to [OFA.SORN@treasury.gov](mailto:OFA.SORN@treasury.gov). The Department will make such comments available for public inspection and copying in the Department's Library, on official

business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect comments by telephoning (202) 622-0990 (This is not a toll-free number). All comments, including attachments and other supporting materials, received are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

**FOR FURTHER INFORMATION CONTACT:**

Janet E. Vail, Office of Financial Agents, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220, tel.: 202-927-0597, email: [OFA.SORN@treasury.gov](mailto:OFA.SORN@treasury.gov).

**SUPPLEMENTARY INFORMATION:** Pursuant to the Emergency Economic Stabilization Act of 2008 (Pub. L. 110–343) (EESA), the Department established the Making Home Affordable Program (MHA Program) to stabilize the housing market and provide relief to struggling homeowners. Since its launch, the Department expanded the MHA Program to provide more options for struggling homeowners, including but not limited to programs for homeowners who are unemployed, owe more on their home than it is currently worth, or are struggling with a second lien.

The purpose of these four alterations is to: (1) update the name of certain of the Department’s EESA authorized housing programs from Home Affordable Modification Program (HAMP) to Making Home Affordable Program to recognize that homeowners may be eligible for other housing relief options in addition to the modification of principal amounts and interest rates of their mortgage loans under HAMP; (2) add a borrower’s criminal history, or lack thereof, to the types of records that may be retained information in the system relating to borrower eligibility, consistent with the requirements of Section 1481 of the Dodd-Frank statute; (3) add the sale of the borrower’s property to the types of records that may be retained information in the system; and (4) include the Dodd-Frank statute as a second statutory authority

for maintenance of the system.

The system of records notice was last published in its entirety on April 20, 2010, at 75 FR 20699. The Department subsequently amended the notice on July 2, 2010, at 75 FR 38608, and then again on June 24, 2011, at 76 FR 37193, which became effective on August 3, 2011.

The system of records notice for the amended "Treasury/DO .218 – Home Affordable Modification Program," is published in its entirety below.

Dated: March 14, 2012.

Melissa Hartman,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

### **Treasury/DO .218**

#### **SYSTEM NAME:**

Making Home Affordable Program.

#### **SYSTEM LOCATION:**

The Office of Financial Stability, Department of the Treasury, Washington, DC. Other facilities that maintain this system of records are located in: Urbana, MD, Dallas, TX, and a backup facility located in Reston, VA, all belonging to the Federal National Mortgage Association (Fannie Mae); in McLean, VA, Herndon, VA, Reston, VA, Richardson, TX, and Denver, CO, facilities operated by or on behalf of the Federal Home Loan Mortgage Corporation (Freddie Mac); and facilities operated by or on behalf of the Bank of New York Mellon (BNYM) in Nashville, TN, and a backup facility located in Somerset, NJ. Fannie Mae, Freddie Mac and

Bank of New York Mellon have been designated as Financial Agents (Financial Agents) for the MHA Program.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

This system of records contains information about mortgage borrowers that is submitted to the Department or its Financial Agents by loan servicers that participate in the MHA Program. Information collected pursuant to the MHA Program is subject to the Privacy Act only to the extent that it concerns individuals; information pertaining to corporations and other business entities and organizations is not subject to the Privacy Act.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

This system of records contains loan-level information about individual mortgage borrowers (including loan records, financial records, and borrower eligibility records, when appropriate.) Typically, these records include, but are not limited to, the individual's name, Social Security Number, mailing address, monthly income, criminal history status as referenced in Section 1481 of the Dodd-Frank statute, the location of the property subject to the loan, property value information, payment history, type of mortgage, and property sale information.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Emergency Economic Stabilization Act of 2008 (Pub. L. 110-343) and Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111-203) (2010).

**PURPOSE(S):**

The purpose of this system of records is to facilitate administration of the MHA Program

by the Department and its Financial Agents, including by enabling them to (i) collect and utilize information collected from mortgage loan servicers, including loan-level information about individual mortgage holders and borrower eligibility; and (ii) produce reports on the performance of the MHA Program, such as reports that concern loan modification eligibility and exception reports that identify certain issues that loan servicers may experience with servicing loans.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

These records may be used to:

- (1) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting violations of or for enforcing or implementing a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a potential violation of civil or criminal law or regulation;
- (2) Disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit;
- (3) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a court order where arguably relevant to a proceeding, or in connection with criminal law proceedings;
- (4) Provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains;

- (5) Provide information to third parties during the course of a Department investigation as it relates to the MHA Program to the extent necessary to obtain information pertinent to that investigation;
- (6) Disclose information to a consumer reporting agency to use in obtaining credit reports;
- (7) Disclose information to a debt collection agency for use in debt collection services;
- (8) Disclose information to a Financial Agent of the Department, its employees, agents, and contractors, or to a contractor of the Department, for the purpose of assessing the quality of and efficient administration of the MHA Program and compliance with relevant guidelines, agreements, directives and requirements, and subject to the same or equivalent limitations applicable to the Department's officers and employees under the Privacy Act;
- (9) Disclose information originating or derived from participating loan servicers back to the same loan servicers as needed, for the purposes of audit, quality control, and reconciliation and response to borrower requests about that same borrower;
- (10) Disclose information to Financial Agents, financial institutions, financial custodians, and contractors to: (a) process mortgage loan modification applications, including, but not limited to, enrollment forms; (b) implement, analyze and modify programs relating to the MHA Program; (c) investigate and correct erroneous information submitted to the Department or its Financial Agents; (d) compile and review data and statistics and perform research, modeling and data analysis to improve the quality of services provided under the MHA Program or otherwise improve the efficiency or administration of the MHA Program; or (e) develop, test and enhance computer systems used to administer the MHA Program; with all activities subject to the same or equivalent limitations applicable to the Department's officers and employees under the Privacy Act;
- (11) Disclose information to financial institutions, including banks and credit unions, for the

purpose of disbursing payments and/or investigating the accuracy of information required to complete transactions pertaining to the MHA Program and for administrative purposes, such as resolving questions about a transaction;

(12) Disclose information to the appropriate Federal financial regulator or State financial regulator, or to the appropriate Consumer Protection agency, if that agency has jurisdiction over the subject matter of a complaint or inquiry, or the entity that is the subject of the complaint or inquiry;

(13) Disclose information and statistics to the Department of Housing & Urban Development (HUD), the Department of Commerce (Commerce), Federal financial regulators, the U.S. Department of Justice (DOJ), and the Federal Housing Finance Agency to assess the quality and efficiency of services provided under the MHA Program, to ensure compliance with the MHA Program and other laws, and to report on the Program's overall execution and progress;

(14) Disclose information to appropriate agencies, entities, and persons when (a) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(15) Disclose information to the DOJ for its use in providing legal advice to the Department or in representing the Department in a proceeding before a court, adjudicative body, or other administrative body before which the Department is authorized to appear, where the use of such

information by the DOJ is deemed by the Department to be relevant and necessary to the litigation, and such proceeding names as a party of interests:

- (a) The Department or any component thereof, including the Office of Financial Stability (OFS);
  - (b) Any employee of the Department in his or her official capacity;
  - (c) Any employee of the Department in his or her individual capacity where DOJ has agreed to represent the employee; or
  - (d) The United States, where the Department determines that litigation is likely to affect the Department or any of its components, including OFS; and
- (16) Disclose information to an authorized recipient who has assured the Department or a Financial Agent of the Department in writing that the record will be used solely for research purposes designed to assess the quality of and efficient administration of the MHA Program, subject to the same or equivalent limitations applicable to the Department's officers and employees under the Privacy Act.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING,  
RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Information contained in the system of records is stored in a transactional database and an operational data store. Information from the system will also be captured in hard-copy form and stored in filing cabinets managed by personnel working on the MHA Program.

**RETRIEVABILITY:**

Information about individuals may be retrieved from the system by reference including the mortgage borrower's name, Social Security Number, address, criminal history status, or loan

number.

### **SAFEGUARDS:**

Safeguards designed to protect information contained in the system against unauthorized disclosure and access include, but are not limited to:

(i) Department and Financial Agent policies and procedures governing privacy, information security, operational risk management, and change management; (ii) requiring Financial Agent employees to adhere to a code of conduct concerning the aforementioned policies and procedures; (iii) conducting background checks on all personnel with access to the system of records; (iv) training relevant personnel on privacy and information security; (v) tracking and reporting incidents of suspected or confirmed breaches of information concerning borrowers; (vi) establishing physical and technical perimeter security safeguards; (vii) utilizing antivirus and intrusion detection software; (viii) performing risk and controls assessments and mitigation, including production readiness reviews; (ix) establishing security event response teams; and (x) establishing technical and physical access controls, such as role-based access management and firewalls. Loan servicers that participate in the MHA Program (i) have agreed in writing that the information they provide to the Department or to its Financial Agents is accurate, and (ii) have submitted a “click through” agreement on a Web site requiring the loan servicer to provide accurate information in connection with using the Program Web site. In addition, the Department’s Financial Agents will conduct loan servicer compliance reviews to validate data collection controls, procedures, and records.

### **RETENTION AND DISPOSAL:**

Information is retained in the system on back-up tapes or in hard-copy form for seven

years, except to the extent that either (i) the information is subject to a litigation hold or other legal retention obligation, in which case the data is retained as mandated by the relevant legal requirements, (ii) or the Department and its Financial Agents need the information to carry out the Program. Destruction is carried out by degaussing according to industry standards. Hard copy records are shredded and recycled.

**SYSTEM MANAGER(S) AND ADDRESS(ES):**

Deputy Assistant Secretary, Fiscal Operations and Policy, Department of the Treasury,  
1500 Pennsylvania Avenue NW., Washington, DC 20220.

**NOTIFICATION PROCEDURE:**

Individuals wishing to be notified if they are named in this system of records, to gain access to records maintained in this system, or to amend or correct information maintained in this system, must submit a written request to do so in accordance with the procedures set forth in 31 CFR 1.26–.27. Address such requests to: Director, Disclosure Services, Department of the Treasury, 1500 Pennsylvania Ave. NW., Washington, DC 20220.

**RECORD ACCESS PROCEDURES:**

*See “Notification Procedure” above.*

**CONTESTING RECORD PROCEDURE:**

*See “Notification Procedure” above.*

**RECORD SOURCE CATEGORIES:**

Information about mortgage borrowers contained in the system of records is obtained from loan servicers who participate in the MHA Program, or developed by the Department and its Financial Agents in connection with the MHA Program. Information is not obtained directly from individual mortgage borrowers to whom the information pertains.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

**Billing Code: 4810-25-P**

[FR Doc. 2012-7754 Filed 03/30/2012 at 8:45 am; Publication Date: 04/02/2012]